

70A-9a-625 Remedies for secured party's failure to comply with chapter.

- (1) If it is established that a secured party is not proceeding in accordance with this chapter, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.
- (2) Subject to Subsections (3), (4), and (5), a person is liable for damages in the amount of any loss caused by a failure to comply with this chapter. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.
- (3) Except as otherwise provided in Section 70A-9a-628:
 - (a) a person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under Subsection (2) for its loss; and
 - (b) if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10% of the principal amount of the obligation or the time-price differential plus 10% of the cash price.
- (4) A debtor whose deficiency is eliminated under Section 70A-9a-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under Section 70A-9a-626 may not otherwise recover under Subsection (2) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.
- (5) In addition to any damages recoverable under Subsection (2), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover \$500 in each case from a person that:
 - (a) fails to comply with Section 70A-9a-208;
 - (b) fails to comply with Section 70A-9a-209;
 - (c) files a record that the person is not entitled to file under Subsection 70A-9a-509(1);
 - (d) fails to cause the secured party of record to file or send a termination statement as required by Subsection 70A-9a-513(1) or (3);
 - (e) fails to comply with Subsection 70A-9a-616(2)(a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or
 - (f) fails to comply with Subsection 70A-9a-616(2)(b).
- (6) A debtor or consumer obligor may recover damages under Subsection (2) and, in addition, \$500 in each case from a person that, without reasonable cause, fails to comply with a request under Section 70A-9a-210. A recipient of a request under Section 70A-9a-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this Subsection (6).
- (7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under Section 70A-9a-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

Enacted by Chapter 252, 2000 General Session